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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/847,264

05/02/2001

Lyn Rosenboom

457009-2

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7590

11/09/2006

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EXAMINER

BATSON, VICTOR D

ART UNIT

PAPER NUMBER

3671

DATE MAILED: 11/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/847,264

Applicant(s)

ROSENBOOM, LYN

Examiner

Victor Batson

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) 3-5 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2 is/are allowed.
- 6) ☒ Claim(s) 1,6-8 and 12 is/are rejected.
- 7) ☒ Claim(s) 9-11 and 13 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

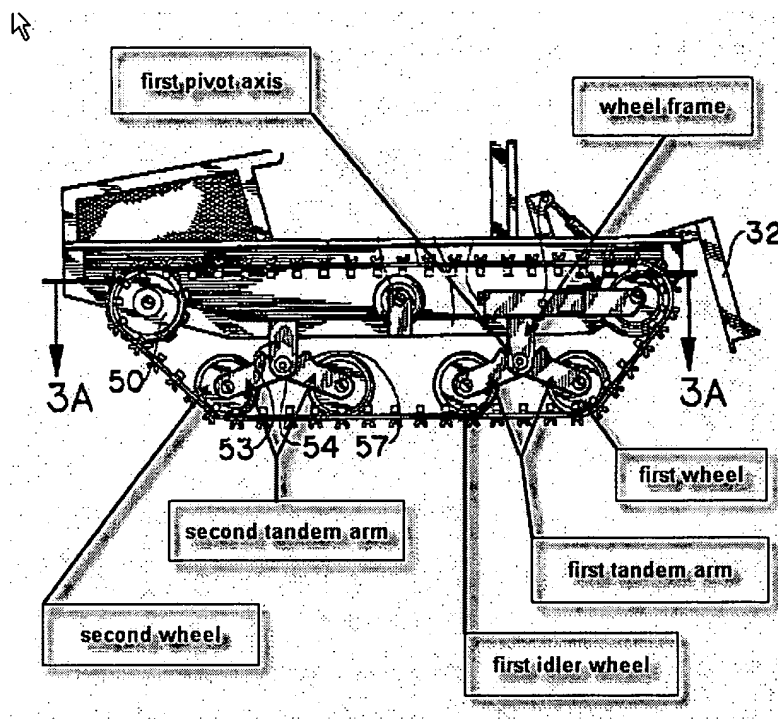
(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1 & 12 are rejected under 35 U.S.C. 102(e) as being anticipated by Lykken et al. (6,318,484).

Lykken et al. discloses a track assembly having all of applicant's claimed structure including a frame (including members 194 & 196 shown in figure 6) for adjustably spacing first and second wheels (164 & 162), a top tandem arm 102, a bottom tandem arm 193, a front idler wheel 188, a second idler wheel 186, and a belt 144 as shown in figures 3 & 4. It is noted that first wheel 164 is mounted to bottom tandem arm 193, which is in turn mounted to a top portion of top tandem arm 102.

Claims 6-8 are rejected under 35 U.S.C. 102(e) as being anticipated by Gignac (6,125,956).

Gignac discloses a track assembly having all of applicant's claimed structure including a wheel frame, a first tandem arm, a wheel frame, a first wheel, a first idler wheel, a second tandem arm and a second wheel as identified in the modified figure below. Gignac further discloses a hitch member 105.



Allowable Subject Matter

Claims 9-11, 13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 2 is allowed.

Response to Arguments

Applicant's arguments filed 8/31/06 have been fully considered but they are not persuasive. Applicant argues that Lykken et al does not disclose the frame structure identified in claims 1 & 12. There appeared to be confusion as to how Lykken et al., was interpreted, especially regarding the first and second wheels and the idler wheels. It is the examiner's position that Lykken et al. meets the claimed limitations as set forth more clearly above. Specifically, first and second wheels are considered wheels 164 &

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162 respectively, with the first and second idler wheels being considered wheels 188 & 186 respectively as set forth in the rejection above. Concerning claims 6-8, applicant argues that claim 6 has been amended to define over Gignac. The examiner does not agree, and has more specifically identified the claimed structure, including the wheel frame, in the modified figure inserted above.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor Batson whose telephone number is (571) 272-6987. The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Will can be reached on (571) 272-6998. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

November 7, 2006


Victor Batson
Primary Examiner
Art Unit 3671